



**UNITED NATIONS APPEALS TRIBUNAL  
TRIBUNAL D'APPEL DES NATIONS UNIES**

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Judgment No. 2021-UNAT-1147

**Anju Malhotra  
(Respondent/Applicant)**

**v.**

**Secretary-General of the United Nations  
(Appellant/Respondent)**

**JUDGMENT**

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Before: Judge Graeme Colgan, Presiding  
Judge John Raymond Murphy  
Judge Jean-François Neven

Case No.: 2021-1512

Date: 29 October 2021

Registrar: Weicheng Lin

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Counsel for Ms. Malhotra: Monika Bileris

Counsel for Secretary-General: Maryam Kamali

**JUDGE GRAEME COLGAN, PRESIDING.**

1. The Secretary-General of the United Nations (the Appellant) appeals against the remedies granted to the Respondent by the United Nations Dispute Tribunal (UNDT or Dispute Tribunal) in New York arising out of the Respondent's successful challenge to the sanctions imposed on her by the Appellant for her alleged harassment of staff and her abuse of authority. Those sanctions included placing a written censure in her official status file (OSF) for a period of five years and removing all her supervisory functions for a period of two years. The UNDT's remedies granted to her included rescission of these disciplinary and administrative measures taken against her. The UNDT also ordered that she be paid three months' net base salary as compensation for reputational damages and for her "distressed efforts to find new employment". For the reasons set out below, we disallow the appeal.

**Facts and Procedure**

2. The Respondent joined UNICEF on 17 February 2012 as Principal Advisor on Gender Rights and Development at the D-1 level. This was a fixed-term appointment. Effective 1 January 2017, her appointment was converted to Principal Advisor, Gender and Development at UNICEF Headquarters in New York.

3. In mid-July 2018, the Respondent was informed verbally that there was a complaint against her and that she was to be placed on administrative leave with full pay (ALWFP) through to 30 September 2018 during the investigation into these complaints. The ALWFP was subsequently extended monthly to 4 February 2019, when the UNICEF Administration decided to allow her to return to work, though the investigation was not yet complete. The investigation was concluded on 24 May 2019.

4. We have taken the following information, which was not set out in the UNDT's Judgment but is nevertheless relevant, from the Respondent's application to the UNDT which does not appear to have been contradicted by the Organisation. Her return to work, in February 2019, was in a capacity known as "double incumbency" – her replacement took over her previous functions as Principal Adviser Gender and Development. As we understand the position, both staff members filled the same position although the Respondent did not fulfill the day-to-day duties of it. A rotation cycle of staff then took place with effect from

1 July 2019 and in which she did not retain her former role. Thereafter, her one-year supernumerary post was unfunded, either institutionally or project-wise and was not renewed beyond 30 June 2020. That was the date on which the Respondent's service with UNICEF was ended.

5. In the meantime, following UNICEF's receipt of the verbal complaint against the Respondent, an undated summary of the allegations of harassment and abuse of authority had been prepared by the Office of Internal Audit and Investigations, UNICEF (OIAI), on the basis of its communications with several staff members. The Respondent received the summary on 10 August 2018 and was requested to provide her response to it by 25 August 2018.

6. The OIAI's summary mainly concerned two incidents that had taken place on 13 March 2018 and 12 April 2018. It also referred to a third incident in May 2018, during which the Respondent had allegedly shouted at a P-3 supervisee about a special work schedule which his direct supervisor had approved. This was said to have taken place in the presence of the direct supervisor. The OIAI's summary described the 13 March 2018 and 12 April 2018 alleged incidents as follows.

*13 March 2018*

7. On that day, the Respondent shouted at Mr. AA,<sup>1</sup> whom she supervised. Her shouting was allegedly of such a volume that it could be heard in the corridor and other staff members left their cubicles to see what was happening. She allegedly told Mr. AA that he was no longer allowed to talk to anyone at UNICEF except for staff members whom she approved.

*12 April 2018*

8. On that day, an UNICEF staff member visited Mr. AA at his desk. After the visitor left, the Respondent called Mr. AA into her office and, in the presence of two other staff members, questioned him about the content of his conversation with the visitor as well as his earlier conversations with other colleagues. She reprimanded Mr. AA for having contacted the IT helpdesk and she was alleged to have walked out of the office when Mr. AA attempted

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<sup>1</sup> Consistent with the impugned UNDT Judgment, the real names of the complainants and witnesses are replaced by double alphabet letters that bear no resemblance to their real names, throughout the Judgment.

to explain the reasons for his calling the IT helpdesk. Mr. AA indicated that it was the Respondent's actions and behaviour that led him to resign from his UNICEF position on 2 June 2018.

9. According to Mr. AA, his colleagues had told him that the Respondent had made negative remarks about Mr. AA to other colleagues. Mr. AA further alleged that she had at times openly made negative remarks about other staff members behind their backs.

10. The OIAI's summary also included complaints against the Respondent by the two staff members who were present at the 12 April 2018 meeting and complaints by other anonymous UNICEF staff members. They accused her of engaging in inappropriate behaviour towards staff, harassment and abuse of authority and creating a hostile work environment through bullying, yelling, intimidating, discriminating, making demeaning and disrespectful remarks and excluding staff from communications and meetings.

11. In her response dated 27 August 2018 to the complaints of harassment and abuse of authority, the Respondent stated that most of the allegations were related to disagreements on office and staff performance issues exacerbated by increased workload pressure on her and her team. She agreed that her voice was loud, that she was "crisp and frank" in what she wanted to say, and she apologised if she had raised her voice and if her manner of speaking had offended her colleagues. She also agreed that she had discussed staff performances and their abilities with the supervisors and her senior team members when those issues had implications for other hubs of the section. But she maintained that her communication with her staff was "respectful and professional", and that the overburdened work and difficult management situation might have induced more frustration and impatience in her interactions with her staff. She did not agree that those had led to harassment or abuse of authority.

12. The Respondent made specific comments on Mr. AA's complaint about her interactions with him on 13 March and 12 April 2018. According to her, Mr. AA was hired as a consultant and came on board on 1 October 2017 on a contract to end on 31 August 2018. But he left the Respondent's section in early June 2018, she said because he found a long-term job. Mr. AA had experienced performance-related issues and engaged in conduct, including communicating with colleagues on matters that were outside his purview, which had caused confusion and stress in the Respondent's office and exposed her office to

reputational risks. She could not recall clearly the event of 13 March 2018, but thought that it was possible that she had a short meeting with Mr. AA regarding the complications that the latter's sidebar communications had created. She said it would have been in order to re-emphasise her instruction that Mr. AA was no longer to communicate directly with other sections, but only through her and two other senior staff members of her office. The Respondent agreed that, given the frustration and tension during the period, it was possible that she "expressed irritation" during her interaction with Mr. AA on that day.

13. Regarding 12 April 2018, the Respondent recalled that she passed by in the hallway a few times on that day and saw Mr. AA carry on a lengthy conversation with a colleague from another office, advising the latter on a work-related issue, instead of referring her to the right person in her office. As she knew that person with whom Mr. AA was speaking, she stopped to greet the visitor, who in turn told the Respondent about the purpose of her errand, and she directed the visitor to the appropriate person in her office. She then called Mr. AA and two other staff members into her office to confirm that Mr. AA should not have been advising visitors on matters that were not within his remit. She suspected that her questioning of Mr. AA about his communication with the planning lead and the IT helpdesk was probably in the same vein.

*25 May 2018*

14. The May 2018 incident mentioned in the OIAI summary refers to a telephone meeting that the Respondent had on 25 May 2018 with Mr. DD and Mr. DD's direct supervisor. Mr. DD joined the Respondent's section in October 2017, but he did not notify UNICEF that he had enrolled in a university Master's degree program in the summer of 2017 requiring him to travel to Europe for one week each month. Mr. DD's first reporting officer neither informed the Respondent of his pursuit of a degree programme while a full-time UNICEF staff member, nor did she consult the Respondent before she agreed to a flexible working arrangement allowing Mr. DD to spend one week per month out of the office in Europe. The Respondent did not learn about Mr. DD's extended absences from the office or his flexible working arrangements until she noticed that he had not been copied on several important matters relevant to his duties. The Respondent said that Mr. DD's extended absences and flexible working arrangements had affected the work of the section.

15. The Respondent started the three-way telephone meeting on 25 May 2018 by asking Mr. DD about the nature of his MBA programme, his plans and his goals. When she sensed Mr. DD was evasive and insincere in his answers, she admittedly “lost [her] cool at that point” and “spoke sharply” to him.

16. In her rejoinder to the complaints of harassment and abuse of authority, the Respondent also responded to the complaints by the named complainants, but she stated that it was difficult for her to respond to the complaints from the anonymous staff members “without knowing their specific nature”.

17. On 24 May 2019, OIAI completed its investigation and submitted an investigation report to UNICEF’s Department of Human Resources (DHR) for appropriate action.

18. In a letter dated 14 June 2019, UNICEF charged the Respondent with misconduct with respect to her conduct towards Mr. AA at the 13 March 2018 and 12 April 2018 incidents and towards Mr. DD during the 25 May 2018 telephone meeting. In particular, this was said to have consisted of shouting at supervisees/colleagues whilst it was reasonable to assume that this would cause embarrassment and/or humiliation, particularly in view of the fact that others were able to hear and/or observe her conduct. The charge letter warned that the numerous reports from the complainants and witnesses suggested that, in order to address her overall management style, administrative action might be required, including but not limited to, a formal reprimand, reassignment to different functions, or an instruction to undergo coaching.

19. On 1 July 2019, the Respondent was moved out of her position to a supernumerary post as Special Adviser, Gender Evidence and Measurement at the (previously same) D-1 level, for a year.

20. On 24 July 2019, the Respondent filed her response to the charges of misconduct. She dedicated a considerable portion of her comments to discussing the various work-related disagreements and performance-related shortcomings of the complainants and the negative impact these shortcomings had on her professional relationship with them and on the office as a whole. She also criticized the conduct of the OIAI investigation and alleged bias on the part of the investigators.

21. The Respondent nevertheless acknowledged that this process had brought to her attention “a number of problems in [her] management interactions with the staff” and that she “took many missteps”. She described the findings of the investigation report to be “sobering and humbling” and stated her surprise that her communications with colleagues were conveyed in ways that were “the opposite of what [she had] intended”. She accepted the fact that “there [was] also clearly a thread of a number of people with hurt feelings and diminished self-respect through their interactions with me ...” The Respondent committed to amending her behaviour and expressed her willingness to receive guidance and acquire new managerial skills to address those issues.

22. In a letter dated 2 August 2019 (the sanction letter), the acting Deputy Executive Director, Management, UNICEF (Deputy ED), informed the Respondent of her decision to impose on the Respondent (a) the disciplinary measure of a written censure which would be placed and remain in her OSF for five years; and (b) administrative measures including removing all supervisory functions from her for two years and requiring her to undergo appropriate training. The Deputy ED stated that she had based her decision on her finding that:

... it is established, by clear and convincing evidence, that, on the three (3) occasions at issue, [the Respondent] shouted at supervisees/colleagues whilst it was reasonable to assume that this would cause embarrassment and/or humiliation. [Her] conduct is unacceptable. However, [the Deputy ED did] note the work-related disagreements and performance-related issues detailed by [the Respondent] concerning the complainants, as well as the impact these issues had on the stress levels, reputation, and workload of [her] office, and consider all of these to be mitigating circumstances. [She also found the Respondent’s] willingness to acknowledge [her] managerial shortcomings, the negative impact these shortcomings have had on [her] supervisees, and [her] willingness to accept guidance in this regard to be mitigating circumstances.

23. The Respondent appealed to the United Nations Dispute Tribunal contesting the decisions to i) place her on ALWFP pending investigation; ii) impose on her the disciplinary measure of a written censure to be placed in her OSF for five years; and iii) take the administrative measure of removing all supervisory functions from her for two years.

24. In Judgment No. UNDT/2020/193 dated 17 November 2020, the Dispute Tribunal found that her application against the decision to place her on ALWFP was not receivable because she had not sought a prior management evaluation of that decision. The

Dispute Tribunal also found that the Respondent had not established any ulterior motive underlying the contested decisions. But the Dispute Tribunal found that UNICEF had failed to demonstrate that she had shouted at Mr. AA and Mr. DD as stated in the sanction letter. Accordingly, the facts on which the sanction was based were not lawfully established. Further, the UNDT found that the basic reason and legal foundation for imposing the written censure was absent, that the established facts did not qualify as misconduct, and that the written censure was therefore unlawful. Finally, the UNDT concluded that the administrative measure of removing all supervisory functions from the Respondent for two years was not lawfully warranted on the basis of reliable facts and was not proportionate to her established wrongdoing. The UNDT thus ordered rescission of both the disciplinary measure and the administrative measure against her. Furthermore, the UNDT found that she had appropriately established the necessary harm, illegality and nexus between them, and ordered that she be paid three months' net base salary, in view of the severity of the illegality, as compensation for reputational damages and her "distressed efforts to find new employment".<sup>2</sup>

25. On 18 January 2021, the Secretary-General filed an appeal against the UNDT Judgment. The Respondent filed an answer to the appeal on 22 March 2021.

### **Submissions**

#### **The Secretary-General's Appeal**

26. The Secretary-General clarifies that he is appealing only the UNDT's monetary award. He requests that the Appeals Tribunal set aside the award of three months' net base salary to the Respondent.

27. The Secretary-General submits that the Dispute Tribunal erred in law and fact in awarding compensation to the Respondent for injury to her reputation as there had been no sufficient evidence of harm. Contrary to the UNDT's conclusion that she had established the necessary harm, illegality and nexus between them to justify an award of compensation for reputational damages, the Respondent had failed to provide any evidentiary basis linking her

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<sup>2</sup> Impugned Judgment, para. 70. The Dispute Tribunal had reviewed the Respondent's submissions and accepted that she had applied for 27 jobs, but she had not been able to secure any new employment subsequent to the imposition of the unlawful disciplinary sanction and administrative measure.



non-selection for the 27 positions, for which she had applied, to the disciplinary decision. She had presented no evidence other than her assertions that her candidature for the 27 positions had been unsuccessful due to damage to her reputation, which was based on alleged rumours purportedly communicated to her inside and outside of the United Nations and which the Secretary-General had no way of verifying or challenging.

28. Apart from a list showing her 27 unsuccessful job applications, the Respondent's own testimony was the only evidence provided in support of the reputational harm. The UNDT was required to undertake an inquiry into the required nexus between the disciplinary decision and each of her unsuccessful applications but failed to do so. Therefore, the UNDT's determination had no valid evidentiary foundation. It was based on speculation that the Respondent's applications for the 27 positions were unsuccessful because she would have had to indicate in her job applications that she had been the subject of disciplinary proceedings/measures. It was an error for the UNDT to take judicial notice of the facts concerning the reputational harm yet to be established by evidence and proceed to award compensation on that basis. The Respondent might not have been chosen for any of the 27 jobs for reasons other than her reputation, but rather because of her unsuitability for a post, her lack of the requisite experience or qualifications, or the availability of other better candidates.

29. The Secretary-General also submits that the Respondent did not establish any monetary loss, as she remained a UNICEF staff member at the D-1 level beyond the duration of the investigative and disciplinary processes until the non-renewal of her contract.

### **The Respondent's Answer**

30. She requests that the Appeals Tribunal dismiss the appeal in its entirety and order the Secretary-General to pay her three months' net base salary as the UNDT directed, plus interest at the U.S. prime rate with effect from 17 November 2020, the date of the UNDT's Judgment.

31. She submits that the UNDT did not err, in law or fact, in finding that she suffered harm to her reputation as a direct result of UNICEF's irregular actions against her in improperly applying disciplinary and administrative measures without having established the conduct alleged.

32. The Respondent also submits that the Secretary-General's reliance on the judgments in the cases of *Auda* and *Timothy* is misplaced,<sup>3</sup> as the UNDT's compensation award was not reliant on her testimony alone; it was also based on her detailed submissions as well as the totality of the circumstances, which included the improperly applied disciplinary sanction and administrative measure, the irregularities in the OIAI investigation, the self-evident damage to her professional reputation and the uncontroverted evidence of her diminished job prospects. Before the Dispute Tribunal, the Secretary-General had opportunities to address her claims for damages, but did not do so, and "[he] has only [himself] to blame".

33. Alternatively, as per *Kallon*,<sup>4</sup> the Dispute Tribunal may rely on her testimony in addition to observing the effect of the injury to her dignity. The facts in her case speak for themselves sufficiently to permit the factfinder to draw a logical and legitimate inference, especially in light of the nature of the breach, the manner of treatment of the staff member, and the violation of the Administration's obligation to treat staff fairly and reasonably.

34. The Respondent maintains that despite her stellar standing in the field of countering child marriage, she has not been able to find another job. Her unsuccessful employment applications having grown to 33 and are increasing as a result of UNICEF's imposition of the irregular disciplinary and administrative actions, and its improper handling of her contractual and supervisory status, her performance reviews "along with other insults and injuries".

35. She further submits that the UNDT did not err in law or in fact in awarding her three months' net base salary in compensation for the reputational harm that she suffered. The Secretary-General fails to accept responsibility for the disproven charges against her or to acknowledge the damage he has caused her, having erroneously charged her with misconduct and then having wrongly disciplined her. His claim that she suffered no damage as a result of his own errors is simply unreasonable and unrealistic. He owes her the proper redress as ordered by the Dispute Tribunal.

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<sup>3</sup> *Auda v. Secretary-General of the United Nations*, Judgment No. 2017-UNAT-787; *Timothy v. Secretary-General of the United Nations*, Judgment No. 2018-UNAT-847.

<sup>4</sup> *Kallon v. Secretary-General of the United Nations*, Judgment No. 2017-UNAT-742.

### Considerations

36. We start by reminding ourselves that the Secretary-General's appeal is of relatively narrow compass and that it must proceed on the facts found by the UNDT which have not been challenged by the Appellant. We are concerned only with the monetary compensation awarded to the Respondent equivalent to three months' net base salary.

37. The relevant statutory provision empowering such an award is Article 10(5) of the UNDT's Statute. In this case, it is open to the UNDT to award either or both of rescission of the wrongful administrative decision, and/or "... [c]ompensation for harm, supported by evidence, which shall normally not exceed the equivalent of two years' net base salary ...". Article 10(5)(b) also allows the UNDT, in "exceptional cases", to award more than that usual maximum amount where that too is supported by evidence, but in such circumstances the UNDT is required to "provide the reasons for that decision".

38. The Respondent had claimed the remedies of rescission and that she be granted a two-year contract in a position equivalent to that which she would have held had her contract been renewed, as it was not. The UNDT rescinded the administrative decisions at issue. It noted, however, that she had not challenged the non-renewal of her fixed-term appointment or any decision not to select her for another appointment. It held: "The [Dispute] Tribunal therefore cannot rescind any non-renewal decision or order a renewal as specific performance".<sup>5</sup>

39. Turning to compensation for harm, the UNDT recorded that it was necessary to find three essential elements.<sup>6</sup> The first was the establishment of harm; the second, unlawfulness of action by the Organisation; and third, a direct *nexus* or direct link between the second and first elements. The UNDT identified the Respondent's evidence that she had unsuccessfully applied for 27 positions, both within and beyond UNICEF, her belief that she had been unsuccessful in attaining any of these because of what had occurred to her leading to the severance of her service and that these events had had a detrimental effect on her physical and mental health for which she had to seek professional medical care. Finally, the Respondent also claimed one year's net salary for the effects of her treatment on her career and reputation, and interest on all monetary payments.

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<sup>5</sup> Impugned Judgment, para. 60.

<sup>6</sup> See *Kebede v. Secretary-General of the United Nations*, Judgment No. 2018-UNAT-874.

40. Addressing the Respondent's claim to compensation for lost income, and as already noted, the UNDT concluded that it was beyond the scope of the case before it to award compensation for lost income arising from non-renewal of her fixed-term appointment or resulting from any non-selection for other roles.

41. As for her claim to compensation for reputational loss, the UNDT referred to the Judgment of this Tribunal in *Kallon*<sup>7</sup> which, at paragraph 68, allowed for evidence of harm to reputation to be adduced through any one or more of the totality of the evidence, the applicant's own testimony or that of others including experts or otherwise by the recounting of the applicant's experience and the observed effects of the insult on the applicant's dignity. The Judgment allowed for the facts "presumptively [to] speak for themselves to a sufficient degree that it is permissible as a matter of evidence to infer logically and legitimately from the factual matrix, including the nature of the breach, the manner of treatment and the violation of the obligation under the contract to act fairly and reasonably, that harm to personality deserving of compensation has been sufficiently proved and is thus supported by the evidence as appropriately required by Article 10(5)(b) ...". That was said to be so particularly when no countervailing evidence has been adduced by the party opposing the award claimed once an evidentiary burden shifted to that opposing party following the establishment of *prima facie* evidence in support of the claim to such compensation.

42. Applying that jurisprudence to the Respondent's case, the UNDT concluded at paragraph 68:

... it follows from the Applicant's submissions, which the [Dispute] Tribunal accepts, that despite her professional experience and credentials and having applied for 27 other jobs, she has not been able to secure any new employment subsequent to being imposed the unlawful disciplinary sanction and administrative measure. As above, the [Dispute] Tribunal further takes judicial note of the fact that it is standard practice that a job applicant for a United Nations job will need to indicate in their job application whether they have previously been subject of a workplace disciplinary process and/or investigation. If having to do so, such stipulations will necessarily significantly devalue a job candidature, in particular if it is a senior position requiring supervisory skills and competencies and the alleged disciplinary issue involved incidents in which the person had been found in fault thereof.

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<sup>7</sup> *Kallon, op.cit.*

43. The UNDT found that the Respondent had established the three necessary ingredients of compensable reputational loss set out above, that the Organisation's unlawful decisions had affected the Respondent's reputation adversely and in particular were likely to have affected adversely her job applications and in particular those made to the United Nations. Having regard also to what it considered was the severity of the breaches by the Appellant, the UNDT considered that compensation should be set "according to the highest levels"<sup>8</sup> and set this at the equivalent of three months' net base salary.

44. Regarding the Respondent's claims to compensation for damage to physical and mental health, the UNDT upheld the Appellant's contention that no evidence (other than that of the Respondent herself) had been adduced to support these claims. The UNDT recorded her previously expressed wish to call such corroborative evidence, including documentary evidence, at a hearing in person should the case progress to that stage, what we interpret as being if the UNDT decided questions of liability in her favour. The Dispute Tribunal said that this reservation of rights had no statutory basis, but also that it was not reiterated in the Respondent's closing submissions made to it in writing which the UNDT had directed be to summarise the submissions already on record. In these circumstances (and relying on the Judgment of the UNAT in *Robinson* (2020-UNAT-1040) at paragraphs 36 & 37), the Dispute Tribunal saw no need to remind the Respondent again to adduce her evidence, especially when, as in this case too, she was represented by counsel. There is, however, one difference between *Robinson* and the instant case: in *Robinson*, the Applicant had the opportunity to apply to the UNDT but failed to do so. In the present case, the Respondent sought expressly to reserve the opportunity to do so at an oral hearing, but this was not dealt with by the Dispute Tribunal, either by allowing her that opportunity when the conditions precedent for its application arose, or even by declining the application and so putting her on notice that she should adduce that evidence at the substantive hearing.

45. While that deprivation of the Respondent's opportunity to adduce evidence in support of her claim to losses of health may or may not have given her grounds for appellate relief, the fact is that she has not appealed against the UNDT's Judgment, and her original claim for such compensation made to the UNDT but refused by it is not within the scope of this appeal by the Secretary-General.

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<sup>8</sup> Impugned Judgment, para. 70.

46. Returning to the Secretary-General's grounds of appeal, we find nothing in the submissions of the Appellant that persuade us that the UNDT incorrectly assessed that the Respondent was entitled to compensation for her wrongful treatment by UNICEF. While, as we note subsequently, we have some difficulty reconciling the modesty of the level awarded in view of the UNDT's statement that it should be "according to the highest levels", there is no appeal by her against that. Nor is there any appeal before us relating to her unilateral transfer to another fixed-term role within UNICEF that was unfunded and from which there was no renewal of contract resulting in her separation from service.

47. Despite no party having identified or relied on this, we consider we cannot leave this judgment without expressing, as an observation, our concern about the consequence of the UNDT's rescission of the wrongful administrative decisions to place a written censure in her OSF for five years, and to remove her supervisory functions for two years. It will be recalled that, shortly after the formal charges were pressed against the Respondent and as she was preparing to answer these, as of 1 July 2019, she was effectively removed from her previous role and allocated to a supernumerary post as Special Adviser, Gender Evidence and Measurement at the D-1 level, for a year. Not having been either reinstated to her previous post or placed in another post at the end of the one-year period, her appointment was not renewed, and she was separated from service with effect from 30 June 2020.

48. Including by her own admission, the Respondent employed a sharp, aggressive and uncompromising managerial style with supervisees with whom she had disagreements principally about performance and office management issues. These events created much animosity towards her. However problematic, annoying and disturbing may have been her interactions with some other staff, the UNDT Judgment confirmed finally that hers did not amount to misconduct warranting the sanctions imposed by UNICEF. Even if her conduct had warranted the sanctions imposed but subsequently set aside as unlawful, there was no suggestion that her behaviour warranted the end to her employment with UNICEF. Counselling, managerial training, mediation with those who had been adversely affected and other remedial measures may have been appropriate, even if the punitive sanctions imposed were not. Yet severance of her service with UNICEF is what occurred to the Respondent as a consequence of the complaints against her and UNICEF's investigation of them. Even the compensation equivalent to three months' base salary, which was awarded, apparently representing what the UNDT said should be set "according to the highest levels" must

represent only a small fraction of the loss of her valued and valuable service undertaking important child protection work at a high level in UNICEF.

49. Given the modest level of compensation awarded to her in all the circumstances and its non-payment, at least to the date of the Respondent's submissions, we allow the Respondent's claim to interest on this sum calculated at the US Prime Rate from 20 November 2020 to the date of its payment to the Respondent.

**Judgment**

50. The appeal is dismissed, and Judgment No. UNDT/2020/193 is upheld although varied to allow the Respondent interest on the compensation sum awarded.

Original and Authoritative Version: English

Dated this 29<sup>th</sup> day of October 2021.

*(Signed)*

Judge Colgan, Presiding  
Auckland, New Zealand

*(Signed)*

Judge Murphy  
Cape Town, South Africa

*(Signed)*

Judge Neven  
Brussels, Belgium

Entered in the Register on this 17<sup>th</sup> day of November 2021 in New York, United States.

*(Signed)*

Weicheng Lin, Registrar